



City of Independence

WATER POLLUTION CONTROL DEPARTMENT

P.O. Box 1019 • INDEPENDENCE, MISSOURI 64051-0519 • (816) 325-7711 • FAX (816) 325-7722

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April 10, 2012

Mr. Walter Fett
Missouri Department of Natural Resources
Division of Environmental Quality
Water Protection Program
P.O. Box 176
Jefferson City, MO 65102-0176

APR 13 2012

Re: 10 CSR 20-6.100 General Pretreatment Regulation Proposed Rule

Dear Mr. Fett:

The following comments are submitted on behalf of the City of Independence, Water Pollution Control Department (WPC). WPC administers the City's approved industrial pretreatment program.

We commend the Department of Natural Resources (Department) for proposing to adopt federal pretreatment streamlining regulations. With EPA poised to promulgate pretreatment standards for dentists, we need the authority to issue general permits and to require Best Management Practices in lieu of effluent limits. Streamlining provisions should enable us to more effectively manage the anticipated increased workload associated with regulating dentists as categorical industrial users.

In July 14, 2011 comments on the Regulatory Impact Report (RIR) for the proposed rule, we expressed concern about the proposed substitution of "the Missouri Hazardous Waste Management Law...and the Missouri Solid Waste Management Law..." for "subtitles C and D of the Resource Conservation and Recovery Act" in 40 CFR §403.8(f)(2)(iii). Section 403.8(f)(2)(iii) requires the Publicly Owned Treatment Works (POTW) to develop and implement procedures to notify significant industrial users (SIUs) of applicable Pretreatment Standards and any applicable requirements under sections 204(b) and 405 of the (Clean Water) Act and subtitles C and D of the Resource Conservation and Recovery Act.

The Independence Rock Creek Wastewater Treatment Facility State Operating Permit, Special Condition 7, requires the permittee to implement and enforce its approved pretreatment program in accordance with the requirements of 40 CFR Part 403. We, and other POTWs with approved pretreatment programs, have already notified SIUs of applicable requirements under subtitles C and D of the Resource Conservation and Recovery Act pursuant to §403.8(f)(2)(iii). The Department's October 20, 2011 response to our RIR comments stated that a one-time notification of federal hazardous waste requirements meets the requirement in the permit.

The Department's response letter further stated that if a future State Operating Permit references the Missouri General Pretreatment Regulation 10 CSR 20-6.100, then another notification would be required (to notify SIUs of applicable requirements under Missouri Hazardous Waste and Solid Waste

Walter Fett, Missouri Department of Natural Resources
April 10, 2012

Page 2

Management Laws). The Department's response letter states that this may be done during the annual inspection of the industrial user and documented in the inspection report to minimize the additional burden.

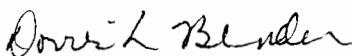
The stated purpose of this rulemaking is to incorporate substantive changes to the federal General Pretreatment Regulation, 40 CFR Part 403. The federal Pretreatment Regulation has been amended to reduce regulatory burden on industries and POTWs. Establishing new notification requirements for POTWs (to notify SIUs of applicable requirements under Missouri Hazardous Waste and Solid Waste Management Laws) is inconsistent with federal streamlining efforts. Further, we question the need for POTWs to provide additional notification to industries of requirements under Missouri Hazardous Waste and Solid Waste Management Laws, which have been on the books since the 1970s. SIUs should already be aware of their obligations under state law. Also, the Fiscal Note for the proposed rule does not address costs for the new notification requirements.

We hope the Department will remove this provision, but if the intent is to establish new SIU notification requirements, then the proposed 10 CSR 20-6.100 should be amended for clarification. 40 CFR §403.8(f)(2)(iii) pertains to requirements that POTWs had to meet when their SIU lists were first approved. Instead of the substitution in Section (10) of "the Missouri Hazardous Waste Management Law...and the Missouri Solid Waste Management Law..." for "subtitles C and D of the Resource Conservation and Recovery Act" in 40 CFR §403.8(f)(2)(iii), the Department should establish the new notification requirements in a new paragraph and include information about how and when to provide the notification to industrial users (*e.g.*, may be done during the annual SIU inspection).

Section (5) of the proposed rule substitutes citations to 40 CFR part 136 with 10 CSR 20-7.015(9)(A). 40 CFR part 136 is revised fairly frequently, as analytical methods and equipment are developed or improved. 40 CFR part 136 makes reference to the most recent versions of Standard Methods, ASTM, etc. 10 CSR 20-7.015(9)(A) is not regularly revised to reflect changes to 40 CFR part 136. This could mean that those laboratories that follow the state list will use a method that is not federally approved. The proposed rule should remove the substitution to insure that only current, federally approved methods are used. Alternatively, instead of substituting 10 CSR 20-7.015(9)(A) for citations to 40 CFR part 136, we suggest referencing both regulations, in order to allow a method to be used if it is listed in either of the two regulations.

Thank you for considering our comments.

Sincerely,



Dorris L. Bender
Environmental Compliance Manager

c: Dick Champion, Jr.
John Rustige, MDNR